State of Rhode Island Office of the Health Insurance Commissioner
Health Insurance Advisory Council
Meeting Minutes
May 18, 2021, 4:30 P.M. to 5:30 P.M.
Virtual Zoom Meeting

Attendance

Members

Co-Chair Commissioner Patrick Tigue, Co-Chair Stephen Boyle, David Feeney, Al Charbonneau, Hub Brennan, David Katseff, Catherine Cummings, Laurie-Marie Pisciotta, Daniel Moynihan, Teresa Paiva Weed, Shamus Durac, Amy Nunn, Cori Chandler, Eugenio Fernandez

State of Rhode Island Office of the Health Insurance Commissioner Staff

Cory King
Maria Casale
Marea Tumber
John Garrett

Not in Attendance

Vivian Weisman, Sandra Victorino, Lawrence Wilson

Minutes

1. Welcome, Introductions, and Review of April Meeting Minutes

Steve Boyle called the meeting to order and introduced the three newest HIAC members: Amy Nunn, Eugenio Fernandez, and Cori Chandler. Amy Nunn is a Professor of Behavioral and Social Sciences at the Brown University School of Public Health and the Executive Director of the Rhode Island Public Health Institute. Cori Chandler is the Government Relations Director at the RI Chapter of the American Cancer Society Cancer Action Network. Eugenio Fernandez is the founder of Asthenis, a public health organization with a built-in pharmacy located in the affordable housing complex of Wiggin Village in Providence that aims to provide communities access to health education and resources.

After introductions, Steve asked for a motion to accept the April meeting minutes. The minutes were approved as submitted.

2. Future Behavioral Health Efforts

Courtney Miner, senior policy analyst at OHIC, gave an update on the offices ongoing behavioral health efforts. Market conduct examinations play a critical role in eliminating disparities between physical and behavioral health care in our state. As part of the fiscal year 2022 governor's budget, OHIC requested funding for a new position that would be dedicated solely to continued oversight and enforcement through the market conduct examination process. This role would provide OHIC with the ability to perform ongoing investigations into potential health insurer non-compliance with federal and state behavioral health parity requirements both proactively and as issues are brought to the attention of OHIC by consumers and providers.

One of the easiest way to inform market conduct exams and other investigations is to make sure that the office is tracking any trends and complaints we receive. OHIC tracks complaints in several

ways: network plans provide a complaint report annually, OHIC's own monthly complaint report, and a monthly report provided by RIREACH as well. The goal is to support prompt identification of trends that may require further investigation and/or action by OHIC.

Marea Tumber, principal policy analyst at OHIC, continued the behavioral health discussion by giving an overview of the state flexibility cycle II grant. Earlier in the year, OHIC applied for this federal grant that would be used to enhance our office's ability to effectively regulate commercial health insurance markets. The grant opportunity is for approximately $660,000 over two years. OHIC's proposed projects include upgrading our website so that it is more consumer-centered, educational, and easily accessible, enhancing OHIC's UR data portal to assist in identifying trends and discriminatory practices, and hiring a staff position and legal consultant assistance to improve access to behavioral health services and ensure parity.

Al Charbonneau commented that five years ago a report came out that highlighted negative aspects of the behavioral health system in the state and it also discussed employer's costs. When this report came out, there was a meeting with behavioral health providers to discuss it, and one of the reoccurring comments was that we used to have a great system in the 80's. We really need to try and understand what made the system great during that time period and how we might get back to that system.

Marea Tumber continued, noting that OHIC is considering some changes to the Affordability Standards that will help support behavioral health in our state. OHIC has a primary care spend requirement and has had that in place for the past decade. This requires insurers to dedicate at least 10.7% of annual medical spend to support and strengthen the capacity of primary care practices. OHIC is now exploring the idea of instituting a similar requirement for behavioral health.

Teresa Paiva Weed asked if these proposed changes to the Affordability Standards are just in the discussion stage, and if not, what is the timeline for these changes? Commissioner Tigue replied that he will cover the timeline in the next agenda item.

Marea Tumber explained that OHIC is systematically reviewing all of the policy levers available to the office to direct insurers towards policies and practices that address the behavioral health needs of children.

3. Affordability Update

Commissioner Tigue gave a high-level overview of OHIC's strategy in developing the next generation of Affordability Standards. The office is going to proceed with this first through an informal development and feedback process and then over a series of months move into a formal regulatory process. While we do not have an official timeline, to ensure we have enough time for robust public comment it will most likely be a one-year timeline starting from the foundational stage, where we are at now.

The next generation of standards in development that OHIC is currently exploring represent an effort to broaden commercial health insurer accountability for improving affordability by addressing three substantive areas:

- <u>BH Expenditure Benchmarking and Investment</u>: OHIC is exploring a similar spending requirement for BH to what is in place for primary care based on benchmarking analysis

that will help inform where BH spending is most needed to lower costs and improve quality.

- Commercial Health Insurer Community Investment: OHIC is exploring requiring investment in community initiatives that can drive health outcome improvements and health care cost savings and has initiated a review of current commercial health insurer reserve levels to inform this effort and other office decisions, such as rate review, including work to:
    - Critically evaluate the prospective need for contributions to reserves which are a factor in rate review.
    - Leverage the Considerations for Appropriate Surplus Accumulations in the Rhode Island Health Insurance Market study completed by The Lewin Group in 2006 in light of current market conditions.

- Further Initiatives to Address Total Cost of Care: OHIC is exploring the expansion of price controls to services beyond the hospital inpatient and hospital outpatient price growth caps currently in place and OHIC will take notice of developments in the Rhode Island market, the findings from the RAND 3.0 study (a hospital price transparency study), and analysis of price variation conducted by researchers at Brown University.

Hub Brennan commented that a 2006 review prompted United Healthcare to extraordinary dividend – they put a committee together to look at and assess applications from various health-related community groups to apply for distribution of those funds. Commissioner Tigue commented that that is incredibly helpful and a community-driven process like you suggested is very important.

Al Charbonneau commented that there has been a lot of discussion on price, which is an important starting point, but we do need to look at underlying costs: all of the expenses that are driving those prices. Al also suggested discussing the Care New England and Lifespan merger at the next HIAC meeting.

Commissioner Tigue commented that the merger will have a foundational impact on all of OHIC's core statutory purposes: protecting consumers, ensuring fair treatment of providers, ensuring insurer solvency, and improving the health care system. When our office views the merger, it is specially focused on affordability and quality. OHIC is not the regulatory entity that is evaluating this merger, but we do have a strong stake in the outcome.

Shamus Durac commented to raise support for the behavioral health spending requirement in the Affordability Standards. There has been a lot of work in the market conduct exams around utilization review and access, and we think that is a foundational way to encourage access.

Teresa Paiva Weed commented that as the office looks into implementing this requirement to note that there are several different types of behavioral health providers, it is not quite as generic as primary care providers.

4. **RIREACH Consumer Update**

Shamus Durac gave an update about recent trends and highlights from the RIREACH consumer helpline. RIPIN has been collaborating with OHIC to do a revamp of some of their behavioral health

tracking. Including overall staff training, and reporting. So far there are not any major new trends, though week to week we do see specific cases of people having difficulty accessing behavioral health care, especially for children.

In terms of other trends, there has been some continued issues with facility fees, but at this point it seems that all of the issues regarding COVID-19 testing have for the most part been resolved. So far this tear RIPIN has saved Rhode Islanders just over a half a million dollars in health insurance costs.

Steve Boyle asked if Shamus knew where the facility fee problems are coming from? Shamus replied that they have come from a variety of places, most frequently from hospital outpatient clinics. Recently they have been from self-insured plans, not from commercial plans.

5. **Legislative Update**

Commissioner Tigue commented that we have sent six position letters since the last Health Insurance Advisory Council meeting. Of those, there are none that were particularly notable to flag – most were just noting that the legislation would introduce a new state health insurance mandate. Advancing a permanent structure for telemedicine access is the office's current number one legislative goal for this session. Our office is trying to be as helpful as possible to allow this legislation to eb passed this session – we do not want a situation where an Executive Order is not continued. Most importantly is that we do not want a gap between when the emergency authorities expire and when there is a new statutory framework.

Teresa Paiva Weed asked if our office is tracking what is going on with telehealth and Medicare on the federal level – Commissioner Tigue replied that our office has not been. One of Teresa's concerns is that we end up with a lot of different telehealth rules when this is all done.

David Feeney asked if when we are discussing telehealth if we are discussing telephone only or audio and visual? Commissioner Tigue replied that it encompasses both definitions. While it is not always appropriate for audio-only to be used for all services, we do think it is critical to ensure there is access for audio-only services as well.

Shamus Durac commented that one thing RIPIN has seen on a couple of occasions is that some individuals have been billed for delivery of test-results by phone, or other small issues that previously would never have been billed for.

Al Charbonneau commented that some people are having trouble dealing with the idea of parity, with respect to audio-only. Particularly because there is literature that says 88% of the claims were new claims that were previously unbilled. Just a word of caution that we need to be very careful about how we roll this out.

Laurie-Marie Pisciotta commented that early-access to outpatient treatment is a good thing, even if there is a higher utilization rate early on. We have to look to the savings that are afforded in the future when folks are avoiding hospitals stays and emergency visits. We cannot just look at utilization rates without looking at the money we are saving in the long-term.

Catherine Cummings commented that even if you have an elderly person who has the appropriate technology and everything, they need available to them, it does not mean they will be able to utilize this new technology successfully. Whereas for many, if you are to call them and talk through a few things, you will very likely avoid a visit. Many patients Catherine has seen could potentially have avoided an in-person visit if they had had the opportunity to have a phone call beforehand.

Additionally, the idea that a telemedicine visit should cost less does not make sense: you still have all of the same overhead, but more importantly, what you are paying for is the skill of the person you are talking to on the line.

6. **Other Business**
   There was no other business.

7. **Public Comment**
   Commissioner Tigue read out Peter Hollman's comment: billing to report test results is improper coding and reporting and is a specific example that would be outside of the statute on telemedicine.

   Teresa Paiva Weed asked when we can return to in-person meetings – Commissioner Tigue replied that at this point it is at our discretion. We can elect to either meet in person in September when we reconvene after the summer or hold our last meeting in June in-person before we take a break for the summer.

8. **Adjournment –** the meeting was adjourned at 5:32pm